

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE ENROLLED ACT No. 107

AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10-10-4, AS AMENDED BY P.L.66-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. As used in this chapter, "public safety officer" means **any of the following**:

- (1) A state police officer.
- (2) A county sheriff.
- (3) A county police officer.
- (4) A correctional officer.
- (5) An excise police officer.
- (6) A county police reserve officer.
- (7) A city police reserve officer.
- (8) A conservation enforcement officer.
- (9) A town marshal.
- (10) A deputy town marshal.
- (11) A probation officer. ~~or~~
- (12) A state university police officer appointed under IC 20-12-3.5.
- (13) An emergency medical services provider (as defined in IC 16-41-10-1) who is:
 - (A) employed by a political subdivision (as defined in IC 36-1-2-13); and
 - (B) not eligible for a special death benefit under

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IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.

SECTION 2. IC 5-10.2-2-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 16. (a) This section applies to any meeting of the board.**

(b) A member of the board may participate in a meeting of the board using any means of communication that permits:

- (1) all other board members participating in the meeting; and**
- (2) all members of the public physically present at the place where the meeting is conducted;**

to simultaneously communicate with each other during the meeting.

(c) A member of the board who participates in a meeting under subsection (b) is considered to be present at the meeting.

(d) The memorandum of the meeting prepared under IC 5-14-1.5-4 must also state the name of each member who:

- (1) was physically present at the place where the meeting was conducted;**
- (2) participated in the meeting using a means of communication described in subsection (b); and**
- (3) was absent.**

SECTION 3. IC 5-10.2-2-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 17. Fund records of individual members and membership information are confidential, except for the name and years of service of a fund member. However, this section does not prohibit a board from providing fund records to an association described in IC 5-10.3-8-10 or IC 21-6.1-5-17.**

SECTION 4. IC 5-10.2-3-2, AS AMENDED BY P.L.53-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001 (RETROACTIVE)]: **Sec. 2. (a) Subject to IC 5-10.2-2-1.5, as used in this section, "compensation" means:**

- (1) the basic salary earned by and paid to the member; plus**
- (2) the amount that would have been a part of the basic salary earned and paid except for the member's salary reduction agreement established under Section 125, 403(b), or 457 of the Internal Revenue Code.**

(b) Except in cases where the contribution is made on behalf of the member, each member shall, as a condition of employment, contribute to the fund three percent (3%) of his compensation.

(c) A member of a fund may make contributions to the member's annuity savings account in addition to the contributions required under

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subsection (b). The total amount contributed by a member (including any amounts contributed on behalf of the member) of contributions that may be made to a member's annuity savings account with respect to a payroll period under this subsection may not exceed ten percent (10%) of the member's compensation for that payroll period. The contributions made under this subsection may be picked-up and paid by an employer as provided in subsection (d).

(d) In compliance with rules adopted by each board, an employer, under Section 414(h)(2) of the Internal Revenue Code, may pick-up and pay the contributions under subsection (c), subject to approval of the board and to the board's receipt of a favorable private letter ruling from the Internal Revenue Service. The employer shall reduce the member's compensation by an amount equal to the amount of the member's contributions under subsection (c) that are picked-up by the employer. Each board shall by rule establish the procedural requirements for employers to carry out the pick-up in compliance with Section 414(h)(2) of the Internal Revenue Code.

(e) A member's contributions and interest credits belong to the member and do not belong to the state or political subdivision.

SECTION 5. IC 5-10.2-4-7, AS AMENDED BY P.L.195-1999, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(b) A member who retires is entitled to receive monthly retirement benefits, which are guaranteed for five (5) years or until the member's death, whichever is later. A member may select in writing any of the following nonconflicting options for the payment of the member's retirement benefits instead of the five (5) year guaranteed retirement benefit payments. The amount of the optional payments shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under sections 4, 5, and 6 of this chapter.

(1) Joint and Survivor Option.

(A) The member receives a decreased retirement benefit during the member's lifetime, and there is a benefit payable after the member's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the option of the member, either the full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(B) If the member dies before retirement, the designated beneficiary may receive only the amount credited to the member in the annuity savings account unless the designated



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beneficiary is entitled to survivor benefits under IC 5-10.2-3.

(C) If the designated beneficiary dies before the member retires, the selection is automatically canceled and the member may make a new beneficiary election and may elect a different form of benefit under this subsection.

(D) If:

(i) the designated beneficiary dies while the member is receiving benefits; or

(ii) the member is receiving benefits, the member marries, either for the first time or following the death of the member's spouse, after the member's first benefit payment is made, and the member's designated beneficiary is not the member's current spouse or the member has not designated a beneficiary;

the member may elect to change the member's designated beneficiary or form of benefit under this subsection and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly designated beneficiary. If the member's new election is the joint and survivor option, the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or two-thirds ($2/3$) or one-half ($1/2$) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

(2) Benefit with No Guarantee. The member receives an increased lifetime retirement benefit without the five (5) year guarantee specified in this subsection.

(3) Integration with Social Security. If the member retires before the age of eligibility for Social Security benefits, in order to provide a level benefit during the member's retirement the member receives an increased retirement benefit until the age of Social Security eligibility and decreased retirement benefits after that age.

(4) Cash Refund Annuity. The member receives a lifetime annuity purchasable by the amount credited to the member in the annuity savings account, and the member's designated beneficiary receives a refund payment equal to:

(A) the total amount used in computing the annuity at the retirement date; minus

(B) the total annuity payments paid and due to the member

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before the member's death.

(c) A selection under subsection (b) may be made or revoked by the member on or before:

- (1) the retirement date selected under section 1 of this chapter; or
- (2) the date on which a retirement date is selected under section 1 of this chapter;

whichever is later.

(d) A member may direct that the member's retirement benefits be paid to a revocable trust that permits the member unrestricted access to the amounts held in the revocable trust. The member's direction is not an assignment or transfer of benefits under IC 5-10.3-8-10 or IC 21-6.1-5-17.

SECTION 6. IC 5-10.2-4-8, AS AMENDED BY P.L.195-1999, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) As used in this section, "exempt amount" means, **the annual earnings limit under the federal Social Security system at the member's Social Security normal retirement age for a member entitled to receive unreduced Social Security benefits, in the case of a member who has not attained the Social Security normal retirement age for unreduced benefits, twenty-five thousand dollars (\$25,000),** computed for the calendar year in which a retired public employees' retirement fund member is reemployed and computed for the fiscal year in which a retired teachers' retirement fund member is reemployed.

(b) This subsection does not apply to a member who is employed by the department of education. If a member who is receiving retirement benefits and who has not attained the Social Security normal retirement age for unreduced benefits:

- (1) becomes reemployed in a position covered by this article; and
- (2) earns in that position more than the exempt amount;

his retirement benefit payments shall stop, and the member shall begin making contributions as required in IC 5-10.2-3-2. However, employer contributions shall be made throughout the period of reemployment. **The earnings limitation under this subsection does not apply to a member who has attained the Social Security normal retirement age for unreduced benefits.**

(c) If a member who is receiving retirement benefits is reemployed in a position covered by this article not more than ninety (90) days after the member's retirement, the member's retirement benefits shall stop, the member shall begin making contributions as required by IC 5-10.2-3-2, and employer contributions shall be made throughout the period of reemployment.



(d) If a retired member is reemployed in a position covered by this article, section 10 of this chapter applies to the member upon the member's retirement from reemployment.

SECTION 7. IC 5-10.2-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. ~~(a) If the member dies during reemployment, contributions and interest, if any, credited to him during reemployment shall be paid to his beneficiary.~~

(b) If any a member dies during reemployment and retirement benefits from before his reemployment are payable after his death, the payment of these amounts shall be made without change, and any additional benefit earned during reemployment shall be paid as provided in section 10 of this chapter.

SECTION 8. IC 5-10.2-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(b) Upon termination of reemployment, except by death, the retirement benefits from before ~~his~~ **the member's** reemployment which are payable after termination shall be paid without change.

(c) If the member is reemployed for fewer than ~~sixty (60)~~ **ninety (90)** consecutive school or working days, upon termination of reemployment, contributions and interest credited to the ~~member~~ **member's annuity savings account** shall be paid to the member. ~~upon the member's application for withdrawal of the contributions and interest.~~

(d) If the member is reemployed for ~~sixty (60)~~ **ninety (90)** or more consecutive school or working days, upon termination of reemployment, the member shall receive an additional retirement benefit.

(e) The additional retirement benefit consists of the sum of a supplemental pension and a supplemental annuity. ~~However, a member may choose to receive a lump sum payment of the amount credited to the member in the annuity savings account during the member's reemployment. If the member chooses to receive the lump sum payment, the member is not entitled to a supplemental annuity. If the member chooses the lump sum payment and is not entitled to a supplemental annuity, the member is still entitled to receive the actuarial equivalent of the annuity payments that were not paid during the reemployment.~~

~~(f) The supplemental pension is computed as follows:~~

~~STEP ONE: Compute a pension under section 4 of this chapter using the member's:~~

~~(1) years of service during the member's reemployment; and~~



(2) average compensation and age at termination of reemployment: during the member's reemployment, if the member is reemployed for less than five (5) years, or average of the annual compensation (as defined in section 3 of this chapter) during the member's reemployment.

STEP TWO: Compute a pension using the member's years of service; compensation; and age at the date of reemployment:

STEP THREE: Subtract the pension in STEP TWO from the pension in STEP ONE. The remainder is the supplemental pension.

(2) If the member is entitled to a supplemental annuity, it consists of the sum of:

(A) an annuity provided by contributions and interest credited to the member during reemployment, if any. **and**

(B) the actuarial equivalent of the annuity payments that were not paid during the reemployment.

(f) The additional retirement benefits are guaranteed for five (5) years or until the member's death, whichever is later. The member may choose instead of the guaranteed payments **any of the following options from under** section 7 of this chapter

(1) ~~The joint and survivor benefit with no guarantee.~~

(2) ~~The cash refund annuity options: for the payment of the member's additional retirement benefits.~~

(g) IC 5-10.2-2-7 applies to additional retirement benefits.

SECTION 9. IC 5-10.3-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) The board is composed of five (5) trustees appointed by the governor:

(1) one (1) of whom must be a member of the fund with at least ten (10) years of creditable service; **and**

(2) not more than three (3) of whom may be members of the same political party; **and**

(3) one (1) of whom must be:

(A) a member of a collective bargaining unit of state employees represented by a labor organization; or

(B) an officer of a local, a national, or an international labor union that represents state employees.

(b) The governor shall fill by appointment vacancies on the board in the manner described in subsection (a) of this section.

(c) In making the appointments under subsection (a), the governor may consider whether at least one (1) trustee is a retired member of the fund.

SECTION 10. IC 5-10.3-6-2 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. Preliminary Survey. The governing body may request a preliminary survey, at its expense, to determine the estimated cost of participation. The board and its actuary shall give an estimate of the costs, the benefits, and other appropriate information. **However, a governing body of a unit that is participating in the fund is not required to request a survey, and the board and its actuary are not required to give an estimate, when:**

- (1) the unit adopts a resolution or ordinance providing that additional classifications of employees will become members of the fund; and**
- (2) the actuary for the fund finds there would be no material change in the current or continued employer contribution rate for that unit because of the additional classification.**

SECTION 11. IC 5-10.3-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. Each member shall contribute three percent (3%) of his compensation to the fund as specified in IC 5-10.2-3. However, for a member who is a state employee, the employer shall pay the contribution for the member, and for a member who is not a state employee, the employer may pay **all or a part of** the contribution for the member.

SECTION 12. IC 21-6.1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) The members of the fund include:

- (1) legally qualified and regularly employed teachers in the public schools;
- (2) persons employed by a governing body, who were qualified before their election or appointment;
- (3) legally qualified and regularly employed teachers at Ball State University, Indiana State University, University of Southern Indiana, or Vincennes University;
- (4) legally qualified and regularly employed teachers in a state educational institution supported wholly by public money and whose teachers devote their entire time to teaching;
- (5) legally qualified and regularly employed teachers in state benevolent, charitable, or correctional institutions;
- (6) legally qualified and regularly employed teachers in an experimental school in a state university who teach elementary or high school students;
- (7) as determined by the board, certain instructors serving in a university extension division not covered by a state retirement law;



(8) employees and officers of the department of education and of the fund who were qualified before their election or appointment;
and

(9) a person:

(A) who is employed as a nurse appointed under IC 20-8.1-7-5 by a school corporation located in a city having a population of more than one hundred ten thousand (110,000) but less than one hundred twenty thousand (120,000); and

(B) who participated in the fund before December 31, 1991, in the position described in clause (A); and

(10) persons who are employed by the fund.

(b) Teachers in any state institution who accept the benefits of a state supported retirement benefit system comparable to the fund's benefits may not come under the fund unless permitted by law or the rules of the board.

(c) The members of the fund do not include substitute teachers who have not obtained an associate degree or a baccalaureate degree.

SECTION 13. IC 36-8-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) A person may not be appointed as a member of the police department **or fire department** after the person has reached thirty-six (36) years of age. A person may be reappointed as a member of the department only if the person is a former member **or a retired member not yet receiving retirement benefits** of the 1925, **1937**, 1953, or 1977 fund and can complete twenty (20) years of service before reaching sixty (60) years of age.

(b) This section does not apply to a fire chief appointed under a waiver under section 6(c) of this chapter or a police chief appointed under a waiver under section 6.5(c) of this chapter.

(c) A person must pass the aptitude, physical agility, and physical examination required by the local board of the fund and by IC 36-8-8-19 to be appointed or reappointed as a member of the department.

(d) A fire chief appointed under a waiver under section 6(c) of this chapter or police chief appointed under a waiver under section 6.5(c) of this chapter who is receiving, or is entitled to receive, benefits from the 1925, 1937, 1953, or 1977 fund may receive those benefits while serving as chief, subject to all normal requirements for receipt of a benefit, including a separation from service.

SECTION 14. IC 36-8-7-11, AS AMENDED BY P.L.118-2000, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) Benefits paid under this section are subject to section 2.5 of this chapter.



(b) If a member of the fire department becomes seventy (70) years of age or is found upon examination by a medical officer to be physically or mentally disabled and unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, so as to make necessary his retirement from all service with the department, the local board shall retire the person.

(c) The local board may retire a person for disability only after a hearing conducted under IC 36-8-8-12.7.

(d) If after the hearing the local board determines that a person who became disabled before July 1, 2000, is disabled and unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, the local board shall then authorize the monthly payment to the person from the 1937 fund ~~as prescribed by section 12.1 of this chapter.~~ **of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.** All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

(e) If after the hearing under this section and a recommendation under section 12.5 of this chapter, the 1977 fund advisory committee determines that a person who becomes disabled after June 30, 2000:

(1) has a disability that is:

(A) the direct result of:

- (i) a personal injury that occurs while the fund member is on duty;
- (ii) a personal injury that occurs while the fund member is responding to an emergency or reported emergency for which the fund member is trained; or
- (iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B); or

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

- (i) there is a connection between the conditions under which the fund member's duties are performed and the disease;
- (ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the



exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

the local board shall then authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

(f) If after the hearing under this section and a recommendation under section 12.5 of this chapter, the 1977 fund advisory committee determines that a person who becomes disabled after June 30, 2000:

(1) has a disability that is not a disability described in subsection (e)(1); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

the local board shall then authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

SECTION 15. IC 36-8-7.5-13, AS AMENDED BY P.L.118-2000, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. (a) For a member who becomes disabled before July 1, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to:

(1) fifty percent (50%) for a disease or disability occurring before July 1, 1991; and

(2) fifty-five percent (55%) for a disease or disability occurring after June 30, 1991;

of the salary of a first class patrolman in the police department, computed and payable as prescribed by section 12(b) of this chapter, to an active member of the police department who has been in active service for more than one (1) year and who has suffered or contracted a mental or physical disease or disability that render the member permanently unfit for active duty in the police department, or to an



active member of the police department who has been in active service for less than one (1) year who has suffered or received personal injury from violent external causes while in the actual discharge of his duties as a police officer. The pensions provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department.

(b) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:

(1) has suffered or incurred a disability that renders the member permanently unfit for active duty in the police department and that is:

(A) the direct result of:

- (i) a personal injury that occurs while the fund member is on duty;
- (ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense; or
- (iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B); or

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

- (i) there is a connection between the conditions under which the fund member's duties are performed and the disease;
- (ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and
- (iii) the disease can be traced to the fund member's employment as the proximate cause); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pensions provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty



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in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(c) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who has been in active service for at least one (1) year and:

(1) has suffered or incurred a disability that:

(A) renders the member permanently unfit for active duty in the police department; and

(B) is not described in subsection ~~(b)(2)~~; **(b)(1)**; and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(d) For a member who became disabled before July 1, 2000, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed and payable as prescribed by section 12(a) of this chapter, to an active member of the police department who has been in active service for more than one (1) year and who has suffered any physical or mental disability that renders the member temporarily or permanently unable to perform his duties as a member of the police department, or to an active member of the police department who has been in active service for less than one (1) year and who has suffered or received personal injury from violent external causes while in the actual discharge of his duties as a police officer, until the time the member is physically and mentally able to return to active service on the police department.

(e) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police

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department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:

(1) suffers or incurs a disability that renders the member temporarily unfit for active duty in the police department and that is:

(A) the direct result of:

- (i) a personal injury that occurs while the fund member is on duty;
- (ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer; or
- (iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B); or

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

- (i) there is a connection between the conditions under which the fund member's duties are performed and the disease;
- (ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and
- (iii) the disease can be traced to the fund member's employment as the proximate cause); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in

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twelve (12) equal monthly installments, to an active member of the police department:

- (1) who has been in active service for at least one (1) year;
- (2) suffers or incurs a disability that:
 - (A) renders the member temporarily unfit for active duty in the police department; and
 - (B) is not described in subsection ~~(b)(2)~~; ~~(e)(1)~~; and
- (3) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) If an application is made by an active member of the police department because of physical or mental disability for temporary benefits as provided in subsection (d), (e), or (f), the benefit is not payable until the local board determines after a hearing conducted under IC 36-8-8-12.7 that the member is unfit for active duty on the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act. Before the hearing, a physician to be appointed by the local board shall examine the member and certify in writing whether in his opinion the member is unfit, physically or mentally, for active duty in the police department. After the pension or benefit has been granted by the local board, the payment commences with the original date of the injury or illness causing the disability.

(h) A member who has been granted a disability benefit under this section and who fails or refuses to submit to a physical examination at any time by the local board physician has no right in the future to receive the disability benefit, and any benefit that has been granted shall be immediately canceled by the local board.

(i) The local board may, from time to time, require a member of the police department who is receiving at any time disability benefits or pensions as provided in this section to be examined by the physician appointed by the local board. After the examination, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether the disability still exists and whether the member should continue to receive the pension or benefit. If after the examination and hearing the



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member is found to have recovered from his disability and is fit for active duty on the police department, then upon written notice to the member by the local board, the member shall be reinstated in active service, the safety board shall be informed of the action of the local board, and from that time the member is no longer entitled to payments from the 1953 fund. If the member fails or refuses to return to active duty after ordered by the local board, he ceases to be a member of the 1953 fund and waives all rights to any further pensions or benefits provided by the 1953 fund.

(j) Notwithstanding any other provision of this chapter, no disability benefit may be paid for any disability based upon or caused by any mental or physical condition that a member had at the time he entered or reentered his active service in the police department.

(k) If a member who is receiving disability benefits under subsection (a), (b), or (c) for a disease or disability occurring after June 30, 1991, is transferred from disability to regular retirement status, the member's monthly pension may not be reduced below fifty-five percent (55%) of the salary of a first class patrolman at the time of payment of the pension.

(l) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material compiled to determine the existence of a disability shall be:

- (1) kept in separate medical files for each member; and
- (2) treated as confidential medical records.

(m) A fund member who is receiving disability benefits under this chapter shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

SECTION 16. IC 36-8-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. This chapter applies to:

- (1) full-time police officers hired or rehired after April 30, 1977, in all municipalities, or who converted their benefits under IC 19-1-17.8-7 (repealed September 1, 1981);
- (2) full-time fully paid firefighters hired or rehired after April 30, 1977, or who converted their benefits under IC 19-1-36.5-7 (repealed September 1, 1981);
- (3) a police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996; and
- (4) a park ranger who:
 - (A) completed at least the number of weeks of training at the Indiana law enforcement academy **or a comparable law**



enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy **or the law enforcement academy in another state;**
 (B) graduated from the Indiana law enforcement academy **or a comparable law enforcement academy in another state;**
 and

(C) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

except as provided by section 7 of this chapter.

SECTION 17. IC 36-8-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) Except as provided in subsections (d), (e), (f), (g), and (h):

- (1) a police officer; or
- (2) a firefighter;

who is less than thirty-six (36) years of age and who passes the baseline statewide physical and mental examinations required under section 19 of this chapter shall be a member of the 1977 fund and is not a member of the 1925 fund, the 1937 fund, or the 1953 fund.

(b) A police officer or firefighter with service before May 1, 1977, who is hired or rehired after April 30, 1977, may receive credit under this chapter for service as a police officer or firefighter prior to entry into the 1977 fund if the employer who rehires him chooses to contribute to the 1977 fund the amount necessary to amortize his prior service liability over a period of not more than forty (40) years, the amount and the period to be determined by the PERF board. If the employer chooses to make the contributions, the police officer or firefighter is entitled to receive credit for his prior years of service without making contributions to the 1977 fund for that prior service. In no event may a police officer or firefighter receive credit for prior years of service if the police officer or firefighter is receiving a benefit or is entitled to receive a benefit in the future from any other public pension plan with respect to the prior years of service.

(c) Except as provided in section 18 of this chapter, a police officer or firefighter is entitled to credit for all years of service after April 30, 1977, with the police or fire department of an employer covered by this chapter.

(d) A police officer or firefighter with twenty (20) years of service does not become a member of the 1977 fund and is not covered by this chapter, if he:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both

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of which were repealed September 1, 1981); and

(3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if he:

(1) was hired before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) was rehired after April 30, 1977, but before February 1, 1979; and

(4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if he:

(1) was hired by the police or fire department of a unit before May 1, 1977;

(2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);

(3) is rehired by the police or fire department of another unit after December 31, 1981; and

(4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, he is entitled to receive credit for all his years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

(1) is employed by a unit that is participating in the 1977 fund;

(2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction;

shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was

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appointed as:

- (1) a fire chief under a waiver under IC 36-8-4-6(c); or
- (2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

- (1) completed at least the number of weeks of training at the Indiana law enforcement academy **or a comparable law enforcement academy in another state** that were required at the time the park ranger attended the Indiana law enforcement academy **or the law enforcement academy in another state**;
- (2) graduated from the Indiana law enforcement academy **or a comparable law enforcement academy in another state**; and
- (3) is employed by the parks department of a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

is a member of the fund.

SECTION 18. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 21-6.1-4-6.1, a member is entitled to service credit in the Indiana state teachers' retirement fund in an amount equal to the duration of the member's active military service if the following conditions are met:**

- (1) **The member completed military service before beginning approved college teacher training.**
- (2) **The member received an honorable discharge from military service.**
- (3) **After 1960 and before 1965, the member received a letter or other notice from the executive director of the Indiana state teachers' retirement fund erroneously stating that the member was eligible to receive service credit in the Indiana state teachers' retirement fund for the military service.**
- (4) **The member is not otherwise eligible to claim service credit in the Indiana state teachers' retirement fund for the military service.**
- (5) **The member files an application with the Indiana state teachers' retirement fund before December 31, 2001, to claim the service credit.**

(b) **Service credit provided under this SECTION applies only to**



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benefits first payable after the member files an application for the service credit and the application is approved by the Indiana state teachers' retirement fund.

(c) This SECTION expires July 1, 2002.

SECTION 19. [EFFECTIVE JULY 1, 2001] Notwithstanding IC 5-10.3-3-1, as amended by this act, the requirement in IC 5-10.3-3-1(a)(3), as added by this act, applies beginning with the first appointment or reappointment made to the board of trustees of the public employees' retirement fund after June 30, 2001.

SECTION 20. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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